

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN STEVE VICK**, on March 6, 2001 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Steve Vick, Chairman (R)
Rep. Dave Lewis, Vice Chairman (R)
Rep. Matt McCann, Vice Chairman (D)
Rep. John Brueggeman (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. Tim Callahan (D)
Rep. Edith Clark (R)
Rep. Bob Davies (R)
Rep. Stanley Fisher (R)
Rep. Dick Haines (R)
Rep. Joey Jayne (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. Jeff Pattison (R)
Rep. Art Peterson (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Paula Broadhurst, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **HB 2**
Executive Action: **HB 2**

HEARING ON HB 2SECTION DCORRECTIONS AND PUBLIC SAFETY

Rep. Fisher gave an overview saying, in comparison to the executive budget, the subcommittee reduced the budgets of the Departments of Justice, Corrections, Military Affairs, Labor and Industry, Crime Control and Public Service Regulations by \$5.6 million in general funds, \$6.7 million in total funds for the biennium 2003. In comparison to the base budget, the subcommittee increased the general fund for the Section D Agencies by \$11.8 million FY 2002 and \$16.4 million FY 2003. Total funds were increased by \$25 million over the base budget year 2002 and by \$29.6 million over the base year 2003. He explained **EXHIBIT**(aph51a01).

Crime Control Division

Jim Oppedahl, Executive Director, Crime Control Division said the Board of Crime Control was established in 1968. They are not recipients of federal funding. They have 17 federal block grants that they administer in the amount of \$9.1 million of federal funds. They also have some state general fund pass through for the juvenile detention centers around the state. In addition, they also operate the crime victims' compensation unit within the Board of Crime Control. They try to help integrate and coordinate criminal and juvenile justice around the state.

Motion: **REP. CALLAHAN** moved that **AMENDMENT SEC D\4107.1as.DOC DO PASS. EXHIBIT**(aph51a02)

Discussion: **Rep. Buzzas** referred to the underage drinking money during the last biennium and how was it used? **Mr. Oppedahl** said the underage drinking funds in the past were administered by the Department of Health and last year came to the Crime Control Division for the first time. In the first year, it went to various efforts; Plains' Police Department got some money for overtime, Great Falls Schools got a grant to keep kids in school who have alcohol problems, Kalispell School District received some grants that allowed peer courts, and allowed for extra patrols, law enforcement and education. **Rep. Buzzas** asked **Rep. Callahan** the reason why this money was turned back by your committee? **Rep. Callahan** said it was one of the first actions they were involved with and was an effort to do what they could to get the budget reduced. **Rep. Buzzas** spoke in favor of the amendment.

Rep. Fisher said he could not support the reinstatement of this.

Rep. Pattison spoke against the amendment.

Rep. Jayne asked what happens to the money that is not utilized?

Rep. Fisher said these are funds that are available to the state through the Crime Control. They just don't apply for them.

Rep. Lindeen asked if this money that is returned back to other states to utilize if Montana does not take the money? **Lorene**

Thorson said yes, that is correct. It would just be money that would not be distributed to Montana. **Rep. Lindeen** spoke in support of the amendment.

Rep. Vick said, just for the record, our tax base is not shrinking and our general fund budget is growing by 7%.

Rep. Lewis commented that teen-age alcohol consumption is a major problem. He supports the amendment.

Reps. Kaufmann and Tropila spoke in favor of the amendment.

Rep. Kasten spoke against the amendment.

Rep. Callahan closed on his amendment.

Vote: **Rep. Callahan** amendment Sec D\4107.1as.doc PASSED 14-4 with **Reps. Davies, Kasten, Pattison and Vick** voting no.

Motion: **REP. CALLAHAN** moved that **AMENDMENT SEC. D\4107-2as.DOC DO PASS. EXHIBIT**(aph51a03)

Discussion: **Rep. Buzzas** asked if this is a situation where they have to have the general fund to match the federal special revenue? **Mr. Oppedahl** said they use general fund for match on various programs and this particular instance, they feel is a fair general fund match but if the Committee can't approve \$300,000 in general fund they will do everything they can to find general fund match to justify this. The grants they have aren't something that gets distributed just in Helena. They go out all over the state to many programs and their ability is very limited to get out and monitor those grants.

{Tape : 1; Side : A; Approx. Time Counter : 0.1 - 30.6}

Reps. McCann and Jayne spoke in support of the amendment.

Reps. Pattison and Fisher spoke against the amendment.

Rep. Haines asked **Mr. Oppedahl** for clarification on some of his earlier comments. **Mr. Oppedahl** said he could provide that information for the committee. **Rep. Haines** asked if the government has threatened to hold back federal funds if we do not meet their standards for supervision or management of these funds? **Mr. Oppedahl** said no they have not threatened them. They are working with us and have encouraged us to have adequate resources. **Rep. Haines** asked have any failures or mistakes in the program been identified because of perceived or implied lack of supervision? **Mr. Oppedahl** said they had a number of discussions on some of the programs, such as the residential and substance abuse federal grant that was held up for a number of months on this particular issue.

Rep. Vick referred to the one FTE the subcommittee added in the present law adjustment. What was that for? **Rep. Fisher** said the subcommittee added one FTE in the Crime Victim's Compensation. The division told them they didn't need to include the funding but needed the person and they would find the funds elsewhere.

Substitute Motion: **REP. BRUEGGEMAN** moved a substitute motion **TO STRIKE THE GENERAL FUND OUT.**

Discussion: **Rep. Buzzas** encouraged the committee to vote for the substitute motion.

Rep. Kasten spoke against the amendment.

Rep. Fisher spoke in favor of the amendment.

Vote: **Rep. Brueggeman** substitute motion to strike the general fund out **PASSED 15-3** with **Reps. Davies, Kasten and Pattison** voting no.

ATTORNEY GENERAL'S OFFICE

Rep. Fisher said the Attorney General's Office has eleven different groups under it, D-5 of the Narrative. The Attorney General has stewardship over the Legal Services Division, Gambling Control Division, Motor Vehicle Division, Highway Patrol, Central Services, Law Enforcement Academy, County Attorney Payrolls, Division of Criminal Investigation, Information Technology, Extradition and Transportation of Prisoners and the Forensics Laboratory in Missoula.

Larry Fasbender, Deputy Director, Department of Justice said they have a rather large budget. They are the fourth largest Department in the state government and have a very diverse

Department as was pointed out by **Rep. Fisher**. Their services are delivered in a very efficient manner.

He referred to their increases, saying personal services are something they don't have a lot of control over. Contracts are entered into and those increase about 3% a year, which is more than half of their budget. Additionally, there is legislative contract authority which has been included in the budget this year at a rate that is almost double what it was in the past. They have experienced a rather significant increase in the resources they need in order to deal with the implementation of SABHRS.

Legal Services Division

Rep. Fisher said reductions were taken and additions given to the Division's budget for a total general fund reduction of \$15,000 and an increase of \$69,000 in total funds for the biennium. The actions of the subcommittee reduced travel by \$10,000 a year. Reinstated \$31,000 from the base budget to the state special funds for an attorney removed by the **Martz'** budget and \$15,000 of state special funds each year for exempt salary increases.

Rep. Lindeen referred to the FTE's for the SABHRS' Project and are the demands temporary or ongoing? **Mr. Fasbender** said those will be continuing demands. When the assessment was made by the divisional consultants, they assumed there was a certain level of support in those agencies of centralized services.

Gambling Control Division

Rep. Fisher said the subcommittee reduced the Division's budget by a little over \$16,000 in general fund, \$78,000 in total fund for the 2003 biennium. The significant actions included the approval of two FTE for the automatic accounting and reporting system. The long distance charges for the automatic accounting and reporting system were reduced by over \$75,000 for the biennium and approved an imaging system for \$50,000.

Rep. Buzzas asked for an update on the automated gambling. **Gene Huntington, Administrator, Gambling Control Division** said when the last session ended, the Gambling Control Division spent a period of time preparing requests for proposals for developers of the automated accounting reporting system. They did not receive any proposals on the first round, then entered into negotiations with a company in Nevada and signed a contract last fall. They were initially expecting some of the communications and equipment at the beginning of the year. They are continuing to work on that with them and would expect first delivery sometime this month. The system is continuing on.

Rep. Buzzas said she is trying to get an idea of the status of the automated gambling and what impact the cuts will have on implementing it. **Mr. Huntington** said the 1999 Session made a long-term commitment general fund for developing the system. That remains intact in terms of the general fund commitment.

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 29.3}

Rep. Lewis referred to the \$15,000 per year in the budget for foreign travel and asked for an explanation. **Mr. Huntington** said, over the past few years, the agency has always carried some authority in case they had an application from a foreign manufacturer of gambling machines. In the event that they would have someone in another country who want to sell their machines in Montana, in order to license them, they would have to inspect their factory and production. They would be charged the money to pay for that as part of their application process. It hasn't happened in recent years. **Rep. Lewis** asked if it's a good idea, as a regulator, to have some foreign company paying for your trip when you are going out to regulate them? It seems that is not a good practice. **Mr. Huntington** said what **Rep. Lewis** alluded to is something they are trying to avoid by having this appropriated. If they were in a situation where they didn't have budgeting authority, they would have to make an arrangement to visit the plant and go through their own regulations in terms of licensing. **Rep. Lewis** said, for instance, we had a gambling manufacturing factory in Tahiti and they paid for **Mr. Huntington** to fly down and look at that factory, would he consider that an arms-length relationship as far as regulation of that particular manufacturer? **Mr. Huntington** said, in terms of a lot of their regulations, the people who are regulating their charts, see that it is designed to cover the cost of the licensing process. The companies they have heard from tend to be in Canada and Australia. **Rep. Lewis** said he just doesn't like the idea of those folks paying for the foreign trips.

Rep. Tropila said that is why the money is in here so it wouldn't appear that way so they can pay for the trip themselves.

Rep. Fisher said they discussed this at length in subcommittee but there is no way of funding the trips unless the money is in the budget.

Motor Vehicle Division

Rep. Fisher said the subcommittee reduced the Motor Vehicle Division budget by approximately \$65,000 for the biennium and these significant changes included approving a new proposal for imaging services in the Title and Registration Bureau. The subcommittee determined the imaging would allow more staff to be

devoted to the Title and Registration, therefore, less overtime was needed. Because of this the subcommittee reduced overtime by \$25,000.

Rep. Vick asked if this is the entire cost of the equipment or did they receive money in a previous biennium? **Ms. Thorson** said this was actually contracted so they do not own the equipment but this would provide all of the equipment and the supplies that go with it. **Mr. Fasbender** said in the past they have had some imaging equipment used in the Drivers Licensing Bureau that was appropriated. This is for the Highway Registration Bureau.

Rep. McCann referred to the process of imaging and asked for an explanation. **Mr. Fasbender** said, at the present time, there are applications coming into Title Registration. Through that process, it is easy for them to measure how much time it takes to do each segment of completing that process. An imaging system will put it all on an electronic system. It allows them to do away with the overtime. A number of other agencies have already done this technological process and it improves the efficiency substantially.

Rep. Lindeen asked for clarification on the use of the money. Doesn't the Department of Administration already have imaging equipment and software so would it be personnel they actually contract for? **Mr. Fasbender** said it would probably be a 5-year contract depending on whether the state does it or whether they contract with a private party. They would recover their costs for actually coming in and doing all of the back-file conversion over that 5-year period. They have some experience in the past of actually doing their own scanning of these documents. It is better to contract with someone to come in and provide those services to them rather than for them to own the scanning equipment. This will contract to have someone set-up the system and also do the back-file conversions necessary to convert all the microfilm to a digital system so they can access all that information electronically.

Rep. Jayne asked about the Mail Renewal figures. **Rep. Fisher** said that was taken out by the **Martz** Budget, \$147,744 each year for the biennium which eliminates the need to send out mail renewal notices to people when their license plates are coming due. **Rep. Jayne** said if that was removed, then more people would have to go to their county headquarters to renew and are there enough FTE's to cover that function? **Rep. Fisher** said the County Treasurers are the only people who could answer that.

Rep. McCann referred back to the Gambling Control Division quoting from the Narrative, "the Department is appropriated up to

\$2.8 million for the biennium from state special revenue for the purchase of the system interface boards to be used for the implementation of AARS" Are those the same funds to be used for the bonding Bill? **Mr. Fasbender** said no. The System Interface Board is a device to interface between the machines and the computer servers in the system. In order to pay for those and make sure they can be acquired, they entered into an agreement with Lodging and Gaming systems that would develop the board, They spoke with the gambling people and they weren't interested in doing that. Those boards would sell for \$200 and the Department would advance a portion of the money for development of the boards and would recover that cost through the sale of the boards to the gambling casinos and the operators.

Highway Patrol Division

Rep. Fisher said this Division, D-17 of the Narrative, is funded primarily with highway special funds which come from the motor fuel taxes and Motor Vehicle Gross Weight fees. The subcommittee reduced the Highway Patrol Division's budget by approximately \$17,000 in special revenue funds. The subcommittee approved the executive request for base adjustments for overtime, gasoline, prisoner per diem, rent, lodging and vehicles. In addition, the subcommittee approved three FTE requested for communications. Those FTE are for radio operators to be located in Missoula, Helena and Billings.

Bert J. Obert, Colonel, Montana Highway Patrol said the Montana Highway Patrol is made up of 204 uniformed officers and 65 civilians. Most of the civilians are the communications or dispatch operators. The FTE are one-third of the Department of Justice budget. They are funded, primarily, from gas tax. That money is collected to build roads, maintain and improve roads and make the roads safe. That is the job of the Highway Patrol.

Rep. Vick asked what the counties charge to keep people in the county jails. Does the agency have any control over what the counties charge for the per diem rates? **Colonel Obert** said they do not have control of that. Those rates are contracted through the Department of Corrections and information is forwarded for what the cost is for each county and they are obligated to pay that rate per county. **Rep. Vick** followed up by asking, if somebody is arrested in Lake County, do they have to be put in that jail? **Colonel Obert** said it is not mandatory that they go to that particular jail. They do try to do that because there is a requirement that, as soon as possible, they must appear before the magistrate in the location in which they were arrested, so if they were to be transferred to another county, which may be cheaper as far as the incarceration rate, they do have to get

somebody there very early the next morning to take them back to the county they were arrested in so they can appear in court.

Rep. Vick asked how long do they have to pay that cost? **Colonel Obert** said it can be one day, it can be just a booking charge if the person comes in or it could be up to a year and could include extensive medical costs. **Rep. Vick** asked if the pay increase to the Highway Patrol helped their efforts to retain their officers? **Colonel Obert** said it has saved the life of the Highway Patrol.

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 31.4}

Division of Criminal Investigation

Rep. Fisher said the subcommittee did not approve a full request for contracted services in the DCI and reduced the amount of general fund for overtime, replacing the general fund with federal authority. These adjustments resulted in a savings of approximately \$26,000 in general fund each year. In addition, the **Martz** budget removed all the base-year funds for vehicles and equipment for \$74,000. The subcommittee restored \$40,000 each year of the biennium for appropriation for vehicle replacement. Overall, this budget was increased over the executive by approximately \$22,500 in general fund for the biennium and most of that was in the \$40,000 for new vehicles.

Motion: **REP. VICK** moved that **AMENDMENT HB000209.alt DO PASS.**
EXHIBIT (aph51a04)

Discussion: **Rep. Buzzas** asked for an opinion on the amendment from the Director. **Mr. Fasbender** said there was a miscommunication between his Department and the Budget of Program and Planning Department. In effect, they cut into the base budget and by taking out this additional \$40,000 it reduces them further below the base. It is actually a cut into their base budget as far as these vehicles are concerned.

Rep. Kaufmann asked for an explanation of the amendment. **Rep. Vick** said, in an attempt to find general fund money, he has had amendments drawn up for those things that were above the Governor's request, to pull those back out. The Department of Justice budget, overall, is one of the fastest growing budgets in state government. His intent was, initially, just to remove the vehicles, then when he saw a need someplace else, such as the Mail Renewals, he added that to this amendment.

Rep. Tropila asked how important are the vehicles to the operation? **Mike Batista, Administrator, Division of Criminal Investigation** said replacement vehicles for the Division of

Criminal Investigation are important as they do investigations primarily in all the counties of the state.

Rep. Lewis asked why doesn't the Department lease vehicles like everyone else in State Government does? **Mr. Batista** said that they did look into the lease program and the reason they don't participate in the program is because of some of the conditions imposed on the lease programs. They do purchase lease return vehicles with low mileage so they can get extended warranties on the vehicles that they purchase. They also don't like the fact that all of their criminal investigators would have look-alike vehicles.

Rep. Pattison asked about the use of confiscated vehicles? **Mr. Batista** answered that they do, on occasion, put into their fleet a confiscated vehicle, primarily as a result of a drug investigation.

Rep. Jayne supports the amendment.

Rep. Vick closed on his amendment.

Vote: Rep. Vick amendment HB000209.alt PASSED 13-5 with Reps. Callahan, Kaufmann, Lindeen, Pattison and Tropila voting no.

County Attorney Payroll

Rep. Fisher said the state pays one-half of the salary and benefits for the 56 county attorneys. The subcommittee approved the budget presented by **Governor Martz**.

Rep. Kasten said they have had testimony and Bills introduced to help battered spouses. If we pay for half of the County Attorneys, could those resources be used in this way? **Mr. Fasbender** said all of these things are policy decisions that the Legislature makes. Not every county has a full-time county attorney, some with just part-time and the state still pays half of that. In most cases, the workload the County Attorneys have exceeds their ability to get a lot of that done. He would doubt that the County Attorneys would have sufficient resources to take on much more of a workload. In past sessions, they have added people at the state level to try to assist the counties dealing with Child Protection Services.

Rep. Buzzas asked about counties in Eastern Montana who shared County Attorneys and maybe there is time available on their caseloads to do this kind of work? **Rep. Kasten** said yes, that

is the way he understands it. **Rep. Buzzas** said it is an idea worth looking into.

Rep. Fisher said it does take place.

Rep. Lewis said this is a local control issue. Setting workload priorities for the local County Attorney who works for the county government might not be something the Legislature would want to initiate a discussion on.

Rep. Kasten said he firmly believes in local control. As the request came in for more attorneys, he thought there was a resource out there that could be used. He would rather have the local people make the decision.

Law Enforcement Academy

Rep. Fisher said the Law Enforcement Academy is located in Helena. It provides training for the law enforcement agencies, such as the sheriffs, city police, Fish and Game and prison guards and have classes year around. The Academy is funded, primarily, with general fund money but it also uses state and federal grant monies. The subcommittee approved the budget as presented with the exception they reduced travel by \$2,000 each year. There was one program, Stop Violence Against Women, that was approved with federal special fund for \$99,000. It is a very efficient and well-run program.

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 31}

Central Services Division

Rep. Fisher said their total budget is about \$1,344,000.

Justice Information Systems

Rep. Fisher said the subcommittee approved the reduced budget requested by approximately \$145,000 in general fund for the biennium. A major decrease was given the Division by approximately \$43,000 in contract services each year rather than \$108,000 requested. A small reduction in travel and reference material was also taken. The total budget is about \$8.7 million.

Rep. McCann asked why is this Information Technology Service Division separate from ISD? **Rep. Lewis** said it is cheaper for them to hire their own people and put them on staff to support their systems to pay ISD because ISD comes with a fairly high overhead charge. The larger Departments, in the case of Public

Health and Human Services and the Department of Justice do, in fact, have their own people.

Extradition and Transportation of Prisoners

Rep. Fisher referred to page D-32 of the Narrative. This is a system that was developed and entirely funded by general funds to transport prisoners to and from the various points of incarceration. The subcommittee approved the budget that was submitted by the Executive.

Rep. Tropila asked if the 25% across the board cut by **Rep. Witt** effect the budget of this agency? **Rep. Fisher** said he asked that the Justice Department and Prison System be excluded from that amendment.

Forensic Science Division in Missoula

Rep. Fisher said this Lab does all the forensic work for the state from burglaries to murders. The subcommittee approved the budget as requested by **Governor Martz** with the exception of minor reductions for fixed cost approved by the General Government Subcommittee. The **Martz** budget removed from the base expenditures, equipment in the amount of \$82,807 each year but Disposition Package 3201, which was approved by the Committee, included \$120,913 for equipment in FY 2002 and \$113,193 in FY 2003. The budget for this operation is about \$5 million. \$4,100,000 comes from general funds. One new proposal was for Legislative Contract Authority.

Motion: **REP. KAUFMANN** moved that **AMENDMENT HB000215.alt DO PASS. EXHIBIT (aph51a05)**

Discussion: **Rep. Vick** asked **Rep. Kauffman** how she arrived at the amount of money needed to operate this program? **Rep. Kaufmann** said, generally, she wanted to fund a person so she looked at the general cost of an office, then wanted most of the money to be available for communities. She called community programs around the state and they said the Board of Crime Control actually had given them some money for this. It tended to be a very modest amount and they were told they could get it for three years and then needed to come up with their own money. She was looking for more of a sustained effort and she picked the number out of the air. **Rep. Vick** asked if the reason she put it in the Department of Justice was because the Board of Crime Control has already handled some of this program? **Rep. Kaufmann** said that was correct.

Rep. Jayne applauded **Rep. Kaufmann's** efforts but will not vote for the amendment. She believes the system is set up now where they can do this at the County Attorney level where they have an opportunity to do some of these endeavors.

Reps. Kasten, Fisher and Pattison opposed the amendment as stated above.

Rep. Buzzas spoke in favor of the amendment.

Rep. McCann asked what type of offenders are specifically identified in this amendment? **Rep. Kauffman** said the program has been used most often for juvenile offenders who are committing early offenses. It doesn't need to be just juvenile offenders, however, they need to look at non-violent offenders because they are candidates for community-based programs.

Rep. Haines asked what this might do to the prison populations?

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 30.8}

Rep. Kaufmann said she would get information. Her sources say there is a reduction in prison population but will get specifics for future discussion.

Rep. Callahan spoke to the merits of the amendment.

Rep. Kaufmann closed on the amendment.

Vote: **Rep. Kaufmann** amendment HB000215.alt **FAILED** 8-10 with **Reps. Lewis, Brueggeman, Clark, Davies, Fisher, Jayne, Kasten, McCann, Pattison** and **Witt** voting no.

Motion: **REP. HAINES** moved a **CONCEPTUAL AMENDMENT TO RESTORE FUNDING OF THE LICENSE PLATES NOTIFICATION DO PASS.**

Discussion: **Ms. Purdy** explained the technical details to the committee by referring to page D-19 of the Narrative, DP 1305. These Communications Operators are funded with gas tax. The legislature added the three FTE. There was no reduction made in the overtime these people had accumulated in the base year. There was still overtime for the communications positions that were still in the project that might not be needed anymore if these additional folks were added in. This amounts to just under \$59,000 each year.

She then referred to page D-14 which is the Motor Vehicle Division. This Division is primarily funded with general fund,

\$8.1 million each year. There is also some gas tax in there. That gas tax has been maintained, essentially, at the level that has been provided for the last couple of biennia. One of the reasons for that is because of the state not wanting to have anymore gas tax in that Division, essentially to save it for the Highway Patrol, for operations of the Department of Transportation and others. The proposal here would be to take out that overtime as the Montana Highway Patrol may not need the additional communications people. That would free up some gas tax which would then be used to replace general fund in the Motor Vehicle Division, which would then be used to fund the Mail Notices. It would be about \$60,000 per year of the remaining \$90,000 difference .

Reps. Kasten and Pattison oppose the amendment.

Reps. Lewis, Lindeen and Brueggeman spoke in favor of the amendment.

Rep. Vick restated the amendment to the committee. The subcommittee added three FTE to help with the overtime problem. This amendment reduces the overtime, replacing general fund to pay for \$59,000 per year of this remaining amount.

Substitute Motion: REP. MCCANN made a substitute motion **TO FUND THE REMAINDER WITH GENERAL FUND.**

Discussion: Rep. Buzzas asked for details on the substitute motion. **Rep. Vick** said he had talked to the Department of Justice and they said they could probably work with their budget on the prisoner per diem costs and find about \$40,000 per year out of that source to fund the notices. **Mr. Fasbender** referred to the program that deals with prisoner per diem. Taking the \$58,000 for the overtime is, frankly unrealistic, as far as they are concerned. The communications centers operate 24 hours a day, 7 days a week.

Rep. Vick asked the committee to resist the amendment.

Rep. McCann closed on his substitute motion.

Vote: Rep. McCann substitute motion to take the remainder needed out of general fund **FAILED 5-13** with **Reps. Lewis, Brueggeman, Callahan, Clark, Davies, Fisher, Haines, Kasten, Lindeen, Pattison, Peterson, Witt and Vick** voting no.

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 28.6}

Substitute Motion: REP. HAINES made a substitute motion **TO TAKE \$29,000 per year FROM OVERTIME DISPATCHER PAY, \$40,000 per year TAKEN OUT OF PRISONER PER DIEM, and if they count the \$40,000 TAKEN FROM THE DEPARTMENT OF JUSTICE there will be \$38,000 left in GENERAL FUND.**

Discussion: Rep. Lindeen asked for clarification. Rep. Vick gave an explanation.

Rep. Clark asked how the prisoner per diem would be funded. Would it lower funds for the regional or private prisons or would it be a reduction of prisoners? Mr. Fasbender said the prisoner per diem, about \$1 million each year, is general fund money. There are some options to try to keep those costs down. It is also possible to work with the Department of Corrections to look at some of those costs, even though contracts have been signed.

Rep. Haines closed on his amendment.

Vote: Rep. Haines substitute motion **PASSED 14-4 with Reps. Clark, Kasten, Pattison and Witt voting no.**

Public Service Commission

Rep. Fisher said the subcommittee approved Governor Martz' budget request except for \$1,853 which was a funding switch between federal and state special funds for the Pipeline Safety Program. In addition, the subcommittee approved an additional \$25,000 in state special revenue for personal services for the 2003 biennium. This was to pay for two upgrades and a pay exception that was not captured when they had the personal snapshots. The Committee's action resulted in an increase over the Martz budget of approximately \$19,000 special funds and \$3700 in federal funds for FY 2003. The total budget for the Public Service Commission is about \$5.62 million of which the bulk comes from special state funds. This organization is funded by the people they regulate.

Wayne Budt, Administrator, Transportaton and Centralized Service Division said they have a number of things they would like the Committee to consider. One is the Pipeline Safety Program, \$1,853 in federal money reduction. There is an amendment the Budget Office has approved which will come before this committee. Another small amendment is consultant money that is approved each biennium, \$100,000. It allows the Commission to call in a consultant if they run into a situation where the staff is faxed out and they need to do some additional research. That has been

approved by the subcommittee, however, they would ask for removal of restriction.

They have two other amendments for consideration. One deals with travel, \$21,438 first fiscal year and \$20,989 the second. They have two new Commissioners that are going to need training and two new staff members. They also need some additional personal services money, \$157,000 each fiscal year.

Rep. Vick referred to travel stating it was his understanding that the subcommittee added some money there. **Mr. Budt** said no.

Rep. Vick asked if they were aware of the global amendment the committee made and it would not affect their budget because it was only general fund travel dollars. **Mr. Budt** said he was not aware so this would be in addition to what was in there now.

Rep. Fisher said the Commission came before the Subcommittee with requests for \$15,900 one year and \$15,400 the second year for travel which was not part of the **Martz** budget. They turned that request down. The Commission received 22% more over the prior year budget. He can find no reason to support this as the above requests were those they heard in subcommittee.

Rep. Witt said the subcommittee has taken action along these lines.

Rep. Buzzas referred to energy deregulation.

Rep. Fisher said when deregulation does occur, the PSC won't have anything of measurable amount to worry about because it's going to be on a free-market basis. The distribution lines will still be regulated. The generating plants have been deregulated so that is out of their control, but he doesn't see any additional workload.

Rep. Vick asked if something is line-itemed, is it the same as having it restricted? **Mr. Budt** said it is his understanding that what the line-item does is track it under a different center. Restricted means it can only be spent for that specific thing.

Rep. Fisher said the subcommittee did grant the Department \$100,000 contract authority, in case federal funds become available.

Motion/Vote: **REP. VICK** moved that **SEC D\4201-3CT.DOC DO PASS.**

EXHIBIT(aph51a06) Motion carried 12-6 with **Reps. Fisher, Kasten, Lindeen, Pattison, Tropila and Witt** voting no.

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 30.3}

Department of Corrections

Rep. Fisher referred to Page D-39 and said the **Martz** budget provided for \$210.3 million for the 2003 biennium. The subcommittee reduced this Department's request for FTE by 10 and reduced the budget by \$4.75 million for the biennium, leaving \$205 million. This results in about a 12.3% increase over the two-year period.

Major increases for the biennium that the subcommittee approved were \$2.9 million for a pay exception granted for correctional officers, \$2.8 million for funding 26 modified probation and parole officers, including \$1 million for chemical dependency services, employment services and Intensive Family Intervention Services in Kalispell. \$4 million in pre-release beds, \$900,000 in the Pine Hill operating adjustment and \$800,000 for the expansion of the Montana Women's Prison in Billings. There was \$6.6 million increase in contract beds and \$2.8 million in the DUI unit. The subcommittee reduced many of the increases enumerated in the **Martz** budget. Other reductions for 2003 are listed on page D-40.

Bill Slaughter, Director, Department of Corrections said total additional cuts to the Department of Corrections, with the cooperation of the subcommittee, were \$4,484,545. They have a plan to mitigate the \$4 million supplemental they brought to the Session and they can justify every remaining contract bed. They have cut every modified FTE position in the system that they can without effecting public safety. He is concerned they will be unable to conduct necessary certification and training given the present budget but will do the best they can. Their ability to travel is important because of the regional prisons.

Rep. Vick related his concerns about the modified FTE and asked for an explanation.

Joe Williams, Administrator, Department of Corrections said in the 1995 Session, there was a Warm Springs Expansion Unit. They were starting to see a backlog of inmates in county jails. They were appropriated 31 FTE to staff that Expansion Unit and in the 1997 Session they received some money for contract beds and that was when they began to move inmates to Texas and got out of the Warm Springs Expansion Unit. There were several fire safety issues with that building. The 31 FTE were to be transferred back to Montana State Prison to be utilized at different posts and then the Director at that time re-allocated 10 of those 31 to meet some of the additional needs across the Department.

Rep. Vick asked how they could move them out and then just a few months come to the legislature and say they have to have them back? **Mr. Williams** said 21 FTE were moved back to Montana State Prison and there were 10 re-allocated throughout the Department for other reasons that hadn't been met. **Rep. Vick** said he doesn't know how those things are determined but they did bring in an independent analysis. It appears to him, and concerns him, that the prison has been full and was run at one time with 387 people, now there are 470. As a Legislator, he is trying to make some decisions about how much staff is needed. If they didn't have a new director he would be harder on the situation than he is going to be.

Rep. Buzzas asked if new staff was added by the Governor after this report came in and after the incident? **Mr. Williams** said yes, there were 31 correctional officers added to Montana State Prison and 28 probation and parole staff added.

Rep. McCann asked when the FTE's were added? **Mr. Williams** said in October, 1999.

Rep. Kaufmann asked if there is some process by which inmates earn some kind of favorable situation and has that changed in recent years? **Director Slaughter** said it depends on when the inmate entered the system to qualify. The Department is working on a process where they can better calculate good time. They actually have a machine, as well as staff, to help. The Court has not given the Department of Corrections clear direction. There is more dialog now and he feels the good-time issue will be worked out.

Rep. Tropila asked how many levels of sex offenders are there? **Mike Ferriter, Administrator, Community Corrections** stated that there are three different categories of sex offenders and it depends on their risk level. **Rep. Tropila** asked why do they put sex offenders in Shelby instead of the State Prison? **Mr. Ferriter** said sometimes there is not room in the Montana State Prison Sex Offender Treatment Program so they are housed elsewhere until they can actually get them into that program.

{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 29.1}

Rep. Jayne asked about unreasonable disciplinary action at Pine Hills by the use of pepper spray and allegations concerning Native American abuse. **Steve Gibson, Pine Hills** said most of the allegations are untrue. Anybody in the State of Montana is welcome to come to Pine Hills and see documentation regarding this issue which is taken very seriously. Pepper spray, if used appropriately, could save thousands of dollars. He referred to

injury to other kids, to staff, escape, stolen cars, broken windows with glass used as weapons and public safety.

Rep. Lewis asked what the population projection is on prisoners?

Mr. Williams explained **EXHIBIT (aph51a07)** **Rep. Lewis** asked if it is the policy of the Department to keep the prison full? **Mr. Williams** said actually the policy of the Department is to manage empty beds. It depends on the numbers and types of offenders they have in the system. They like to keep the prison at a population of around 1300. The regional prisons have a guarantee of 50% occupancy.

Rep. Vick asked if we have reached the point of diminishing return? There are certain amounts of prison beds we need and maybe we have reached that point and don't need additional prison beds, which appears to be a national trend. **Mr. Williams** said what they have done is formed, through the Governor's Office, a Population Projections Advisory Committee. **Rep. Shockley and Sen. Cocchiarella** serve on it, as well as members of law enforcement and County Attorneys. They discuss all those issues, nationally, regionally and locally.

Rep. Buzzas asked now that the numbers appear to be leveling off, how did they estimate their 5% to 6% increase? **Mr. Williams** said they looked at the last three years of actual growth. Their projections are within 1% to 2% for their entire system of 9,000 offenders.

{Tape : 5; Side : A; Approx. Time Counter : 0.1 - 29.5}

Rep. McCann asked what is the minimal state obligation for contract beds? **Mr. Williams** said it is 76 offenders in Cascade County, 72 in Dawson County, 72 in Missoula County.

Rep. Lindeen referred to the telemarketing program. **Director Slaughter** referred to the enterprises such as the dairy property, steers and feedlot, manufacture of office furniture and a telemarketing system with private aspects. They do produce a significant amount for profit and all those enterprises actually run on those proprietary funds.

Rep. Tropila referred to the graph, EXHIBIT 7 and the reason their population went up is because Shelby and Great Falls went down.

Rep. Jayne asked how much of the Department is funded for drug rehabilitation effort to the inmates? **Director Slaughter** said

there are treatment programs in the secure facilities, juvenile and adult, male and female, and the pre-release center.

Rep. Buzzas asked what the average cost per prisoner per day is? **Mr. Williams** said it is around \$60.63 per day and that includes all outside medical and six separate custody levels.

Motion: REP. PATTISON moved that HB000204.alt DO PASS.
EXHIBIT (aph51a08)

Discussion: Rep. Fisher spoke in support of the amendment.

Chuck Swysgood, Director, Office of Budget and Program Planning spoke on the amendment.

Rep. Buzzas referred to the tally sheet and how much money have they restored to the general fund? **Rep. Lewis** said his assumption would be it won't be recognized on the LFA sheet until SB 489 passes and they actually take it out of HB 2.

Vote: Rep. Pattison amendment HB000204.alt PASSED UNANIMOUSLY 18-0.

Rep. McCann referred to SB 489 and 4th time DUI offenders and asked **Rep. Fisher** if he is comfortable with those savings due to this program? **Rep. Fisher** said yes, the savings will be there. **Rep. McCann** asked what incurs these savings? **Mr. Williams** said in 2000, there were 274 4th time DUI offenders enter the corrections system serving an average sentence of 13 months. What this would do under SB 489, would set up a six-month intensive treatment program for about 140 individuals at a time and the cost is roughly \$43 a day. Instead of having offenders stay 13 months in prisons/pre-release, they are doing intensive treatment at \$20 a day less for 6 months.

Department of Labor and Industry

Rep. Fisher explained the budget from Page D-72 of the Narrative.

Mike Foster, Commissioner, Labor and Industry said the Department is comprised of six Divisions. The Job Service Division serves as an employment agency to provide job training, to assist individuals in preparing for and finding jobs and to assist employers in finding workers. The Division oversees federal and state training and apprenticeship programs and conducts research, and employment statistics.

The Unemployment Insurance Division administers the State Unemployment Insurance Law and related federal programs and provide temporary, partial wage replacement to involuntary unemployed individuals.

The Employment Relations Division oversees and regulates the Montana Worker's Comp system, enforces state and federal labor standards, anti-discrimination laws and state and federal safety occupational health laws and provides adjudicated services in labor management disputes.

The Montana Community Services is an administratively attached operation and this group administers the Federal Corporation for the Nation's Service programs, Americorps, Learn and Serve America and National Senior Service Corps.

The Workers Compensation Court is also administratively attached to the Department. The Department provides a forum for Montana employees and insurance industry to resolve disputes arising from work related injuries and occupational diseases.

The Department is funded with a mixture of general fund, state and federal special revenue and proprietary funds. General fund equals about 3.55% of their budget.

{Tape : 5; Side : B; Approx. Time Counter : 0.1 - 29.1}

Motion: REP. PATTISON moved that **AMENDMENT HB000206.aty DO PASS. EXHIBIT (aph51a09)**

Discussion: Rep. Fisher said he could not support that reduction

Ms. Purdy said when the legislature made the appropriation last time, they didn't want anymore in the base for the next time than between \$180,000 and \$190,000. Everything else had to come in and be re-justified as a new proposal and what **Rep. Pattison's** amendment does is get back to the amount wanted to appear in the base.

Wendy Keating, Administrator, Job Service Division, said the program actually is designed to serve the most at risk of drop-out youth in high schools and to prepare them for meaningful career-oriented jobs. It also provides long-term follow-up to those students to assure their successful transition into the workplace. Last year they served about 830 students.

Rep. Pattison closed on his amendment.

Vote: Motion failed 2-16 with Reps. Lewis, Brueggeman, Buzzas, Callahan, Clark, Davies, Fisher, Haines, Jayne, Kasten, Kaufmann, Lindeen, McCann, Peterson, Tropila and Witt voting no.

Motion: REP. CALLAHAN moved an amendment HAC\SecD\6602-1mb1.doc HB 2 DO PASS. **EXHIBIT**(aph51a10)

Discussion: Reps. Fisher, Buzzas, McCann, Kaufmann.

{Tape : 6; Side : A; Approx. Time Counter : 0.1 - 29.1}

Vote: Rep. Callahan amendment failed on a tie vote 9-9.

Military Affairs Department

Rep. Fisher said this Department is made up of five different operations, the Operations Support Group, the Army National Guard, the Aid Guard, the Veterans Affairs and the Disaster and Emergency group that helps fight forest fires. Their budget is \$9,541,000 which is a 53% increase over last year. Page D-87 of the Narrative.

The Challenge program and Scholarship program are one-time only. These two programs do not appear in the base.

Major General Gene Prendergast, Adjutant General for the State of Montana and Director of Military Affairs spoke about the program and said he would be available for questions.

Discussion: **Rep. Buzzas** referred to the \$2.2 million allocated by the subcommittee for the Youth Challenge Program. Is it new money? **Rep. Fisher** said this program is a five-month program for youths from 16-18 who have dropped out of school or given up on their education. It is a volunteer program. They earn their GED and learn discipline. It is a very successful program. It was funded 75/25 and now it is 60/40. It is new money for this biennium because last time it was a one-time only program. **Rep. Buzzas** said they have turned down a lot of programs for keeping kids in school and they need to look at accountability. **EXHIBIT**(aph51a11) **EXHIBIT**(aph51a12) **EXHIBIT**(aph51a13). She feels this is a very expensive program.

Reps. Brueggeman, Kasten, Lewis to General Prendergast and Rep. Buzzas.

{Tape : 6; Side : B; Approx. Time Counter : 0.1 - 28.1}

Rep. Lewis said it is not really fair for **Rep. Buzzas** to say that if we eliminated this program we could buy 186 teachers. He would challenge that statement on the Floor. **Rep. Buzzas** said this is not what she is trying to do. She referred to EXHIBIT 11 and she said she would like to have money for GED for community programs.

Rep. Peterson asked for an explanation of the costs. **General Pendergast** responded by introducing **Mike Royer, Director, Youth Challenge Program**. **Mr. Royer** said the program revolves around corps components and explained the program.

Rep. Fisher said if they are going to judge this program on GED's, it probably would be very expensive, but how much value do you put on saving a youngster who has never had the opportunity to develop the trades to get along. Education is one thing but they should be taught how important an education is

Rep. Jayne asked about the personnel of the Youth Challenge Program and what is the total budget as it stands now? **Mr. Royer** said that the budget is currently and has been since 1995, \$2.8 million dollars total per year to run the program and approximately 47% of the budget is payroll related.

Rep. McCann asked if they still have the Alternate Youth Program? **Rep. Fisher** said yes, but it is under the Department of Corrections.

Rep. Vick asked if there is any restriction on this program? Do they have to be Montana kids? **Mr. Royer** said that is correct. They must reside here with their family and clearly be residing in Montana. They have not put a time-line stipulation on that. It is free to the student and there is no financial means test.

Rep. Buzzas referred to a comment by **Mr. Royer** who said the kids they get are bound for prison. What kind of data is collected to base that premise on. **Mr. Royer** said it is an annual report that is put out by an agency called SCI who act as a subcontractor for the National Guard.

Rep. Kaufmann asked if they track the kids who have applied for the program and are they staying out of prison? **Mr. Royer** said they track it out to a year and as far as they know there are no youth in prison.

Motion: **REP. PATTISON** moved that **AMENDMENT HB000211.aty DO PASS. EXHIBIT (aph51a14)**

Discussion: Rep. Fisher spoke against the amendment.

Rep. Vick said he understands Rep. Fisher's concerns but nearly 50% of the budget is federal funds and they can't tell them what to do, but if every match program dropped 15%, the amount of match would bankrupt the state if they felt they had to continue with all the programs.

Rep. Buzzas commented on the amendment.

Reps. Kasten and Jayne spoke in favor of the amendment.

Rep. Haines asked what will happen to the program if it is cut back to this ratio? General Prendergast stated that it would be very, very critical to the program because as you take away the state funds, the federal funds also go away.

Rep. Vick asked if the program has to be run at 100 students per class? General Prendergast said that is correct and is also mandated by Congress.

Rep. Fisher reminded the committee how expensive it is for administrative and teacher salaries, not just in this program but in the school systems in general.

Rep. Clark commented that this is a 24-hour per day, 7-day per week program and the students are supervised at all times.

Rep. Buzzas asked about the donation that the program received last year and if they can use that money for a match? General Prendergast said it was a scholarship and it cannot be used for a match.

Rep. Brueggeman asked about the success rate for kids. General Prendergast said, of the kids that graduate from this program, the success rate of them going on to school or into the military is very high.

Rep. Pattison closed on his amendment.

{Tape : 7; Side : A; Approx. Time Counter : 0.1 - 29.2}

Vote: Rep. Pattison amendment HB000211.aty PASSED 11-7 with Reps. Brueggeman, Clark, Davies, Fisher, Haines, Peterson and Tropila voting no.

Rep. Buzzas said last time when they funded the Youth Challenge Program, did they use the discretionary money as match in the Work Force Development Funds out of the Governor's Office? **Mr. Swysgood** said yes. This time they came to the committee with the amount of money that is needed to run the program for two years.

The committee went back to the Department of Labor for the Kasten amendment as follows:

Motion/Vote: REP. KASTEN moved that AMENDMENT SEC D\6602-2MBL.DOC DO PASS. **EXHIBIT**(aph51a15) The amendment passed 17-1 with **Rep. Fisher** voting no.

Discussion: **Rep. Vick** asked if this is half of **Rep. Callahan's** amendment that failed on a 9-9 tie vote. **Rep. Kasten** said yes.

Rep. Fisher closed on Section D of HB 2.

Motion/Vote: REP. FISHER moved to CLOSE SECTION D OF HB 2 DO PASS. Motion carried unanimously 18-0.

{Tape : 7; Side : B; Approx. Time Counter : 0.1 - 5.4}

ADJOURNMENT

Adjournment: 5:30 P.M.

REP. STEVE VICK, Chairman

MARY LOU SCHMITZ, Transcriber

SV/PB/MLS

EXHIBIT (aph51aad)